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7 and Counterclaimants
NOVELL, INC. and VOLERA, INC.
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 NETWORK CACHING)
TECHNOLOGY, L.L.C.,)

13 Plaintiff,)

14 v.)

15 NOVELL, INC., VOLERA, INC.,)
16 AKAMAI TECHNOLOGIES, INC.,)
CACHEFLOW, INC., and INKTOMI)
17 CORPORATION.)

18 Defendants/Counterclaimants.)

CASE NO.: CV-01-2079 VRW

**DECLARATION OF WILLIAM
O'CALLAGHAN IN SUPPORT OF
DEFENDANTS' MOTION TO STRIKE**

Date: June 27, 2002

Time: 2:00 p.m.

Judge: Honorable Vaughn R. Walker

Place: Courtroom 6, 17th Floor

1 I, William O'Callaghan, declare as follows:

2 1. I am an attorney with the law firm of Wilson, Sonsini, Goodrich & Rosati PC,
3 counsel for defendants Novell, Inc. ("Novell") and Volera, Inc. ("Volera"). I have personal
4 knowledge of the facts set forth in this declaration and could and would competently testify
5 thereto under oath if called as a witness.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff Network
7 Caching Technology, L.L.C.'s ("NCT" or Plaintiff) Second Revised Preliminary Infringement
8 Contentions Appendix A-1 ("Accused Novell Product: BorderManager") that was served by
9 Plaintiff on April 15, 2002.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of Plaintiff's Second
11 Revised Preliminary Infringement Contentions Appendix A-2 ("Accused Novell Product:
12 Internet Caching System") that was served by Plaintiff on April 15, 2002.

13 4. Attached hereto as **Exhibit 3** is a true and correct copy of Plaintiff's Second
14 Revised Preliminary Infringement Contentions Appendix A-3 ("Accused Products: Novell
15 BorderManager & Volera Excelerator") that was served by Plaintiff on April 15, 2002.

16 5. Attached hereto as **Exhibit 4** is a true and correct copy of Plaintiff's Second
17 Revised Preliminary Infringement Contentions Appendix B-1 ("Accused Volera Product:
18 Excelerator") that was served by Plaintiff on April 15, 2002.

19 6. Attached hereto as **Exhibit 5** is a true and correct copy of U.S. Patent No.
20 5,611,049. I have reviewed the specification for the '049 patent for references to "request
21 director routine 144." My review included conducting electronic word searches for "request
22 director routine 144", "request director", and "144". Only one reference to this routine turned up
23 in my review and it provides:

24 If all the requested data is not present in the NDC buffers 129, then the buffer
25 search routine 126 prepares a DTP downstream request, indicated by the arrow 142
26 in FIG. 3, for only that data which is not present in the NDC buffers 129. A
27 **request director routine 144** then directs the DTP request 142 to the DTP client
interface routines 108, if this NDC 50 is not located in the NDC server terminator
site 22, or to the file system interface routines 112, if this NDC 50 is located in the
NDC server terminator site 22.

28 See Exhibit 5 at col. 15, lines 21-29 (emphasis provided).

1 7. Attached hereto as **Exhibit 6** is a true and correct copy of documents bates
2 numbered NCT 010657-698, that were produced in discovery in the above-captioned action by
3 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
4 Contentions.

5 8. Attached hereto as **Exhibit 7** is a true and correct copy of documents bates
6 numbered NCT 010702-737, that were produced in discovery in the above-captioned action by
7 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
8 Contentions.

9 9. Attached hereto as **Exhibit 8** is a true and correct copy of documents bates
10 numbered NCT 010790-826, that were produced in discovery in the above-captioned action by
11 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
12 Contentions.

13 10. Attached hereto as **Exhibit 9** is a true and correct copy of documents bates
14 numbered NCT 010830-861, that were produced in discovery in the above-captioned action by
15 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
16 Contentions.

17 11. Attached hereto as **Exhibit 10** is a true and correct copy of documents bates
18 numbered NCT 010914-945, that were produced in discovery in the above-captioned action by
19 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
20 Contentions.

21 12. Attached hereto as **Exhibit 11** is a true and correct copy of documents bates
22 numbered NOVL 013267-278, that were produced in discovery in the above-captioned action by
23 Defendant Novell. These documents were cited by NCT in connection with its Preliminary
24 Infringement Contentions.

25 13. Attached hereto as **Exhibit 12** is a true and correct copy of documents bates
26 numbered NCT 011496-509, that were produced in discovery in the above-captioned action by
27 Plaintiff. These documents were cited by NCT in connection with its Preliminary Infringement
28 Contentions.

1 14. Attached hereto as **Exhibit 13** is a true and correct copy of documents bates
2 numbered NOVL 012848, 012867-870, and 012891-897, that were produced in discovery in the
3 above-captioned action by Defendant Novell. These documents were cited by NCT in
4 connection with its Preliminary Infringement Contentions.

5 15. Attached hereto as **Exhibit 14** is a true and correct copy of documents bates
6 numbered CF 007451-456, that were produced in discovery in the above-captioned action by
7 Defendant Cacheflow, Inc. These documents were cited by NCT in connection with its
8 Preliminary Infringement Contentions.

9 16. Attached hereto as **Exhibit 15** is a true and correct copy of documents bates
10 numbered NOVL 010533 and 010715, that were produced in discovery in the above-captioned
11 action by Defendant Novell. These documents were cited by NCT in connection with its
12 Preliminary Infringement Contentions.

13 17. Attached hereto as **Exhibit 16** is a true and correct copy of documents bates
14 numbered NOVL 010789, 010792-795, that were produced in discovery in the above-captioned
15 action by Defendant Novell. These documents were cited by NCT in connection with its
16 Preliminary Infringement Contentions.

17 18. Attached hereto as **Exhibit 17** is a true and correct copy of documents bates
18 numbered NOVL 010804-807, that were produced in discovery in the above-captioned action by
19 Defendant Novell. These documents were cited by NCT in connection with its Preliminary
20 Infringement Contentions.

21 19. Attached hereto as **Exhibit 18** is a true and correct copy of documents bates
22 numbered NOVL 011555, 011598, 011602-605, 011616, 011687-692, 011695, and 011700, that
23 were produced in discovery in the above-captioned action by Defendant Novell. These
24 documents were cited by NCT in connection with its Preliminary Infringement Contentions.
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1 Executed on the 23d day of May, 2002, in Palo Alto, California.

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct.

4 /s/ William O'Callaghan
5 William O'Callaghan
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